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## TAXATION OF LARGE ESTATES.

Since the death of Mr. Jay Gould, and the revelations concerning the magnitude of his estate and the amount of current taxes paid thereon, there is a revival of the discussion of the propriety of some form of pursuing legislation which should prevent escape from public burdens by rich men, or which should at least overtake them at death, if not before. There is a degree of excuse, not justification, in this readiness to outwit or avoid the tax gatherer in the fact that the public hand is thrust into the private pocket largely to sustain office-holders and jobs of party politicians. If one could be sure that the money paid as taxes, or as legacy exactions, was to be put to good, necessary or philanthropic uses, and was to be handled by men commanding confidence for probity and skill there would be less "tax dodging." This same feeling in past ages, and to some extent this is still the case, made of the ecclesiastics a sort of residuary legatee and general almoner. But under its shadow learning got only a small share, and science scarcely any.

Aside from this danger of the church becoming, as in the Latin countries and their American offshoots, the great property-holder, there is a distinct menace to free institutions and popular welfare in the perpetuation of large estates far beyond the lifetime of their accumulators, and long after all support of dependent kin has served as an excuse. Indeed, we find a part of the daily press advocating this holding together of large fortunes by trusts and artificial devices of the law, for industrial, commercial or other than benevolent purposes. It is a proposal to place the living generations under the constraint of hands long dead, through the pressure of money.

The subject of the disposition—testamentary and otherwise—of dead people's property is one in which the State

may intervene ; and history is full of examples, though the necessity for it for social reasons were, perhaps, never so obvious as in this Republic with its unprecedented growth of wealth by peaceful agencies. The right of the State so to intervene and regulate, and to take toll, need not be argued ; the fact that it has not been contested in our own courts is conclusive. But if it were indefensible on the existing grounds I have a suggestion to offer thereupon which will tend to remove the last vestige of objection from the testators, or intestates, themselves and come as near to satisfying insatiable heirs as any measure can, in fact much nearer than the present wasteful legal scramble in the courts.

In a paper read before the Section on Economics of the American Association for the Advancement of Science, in Washington, August, 1891, I advocated (1) making a legal distinction between a property competence, to be freely heritable, and a surplus which should be subject to State participation ; (2) the creation of a public legatee for the purpose of accepting gifts, legacies, and the proceeds of taxes on inheritances, and devoting them to works of philanthropy, charity, instruction, amelioration and compassion, on plans comprehensive and systematic, much more effectual than the donor could himself devise or organize, even if his will were to be respected.

It does not need a very extensive acquaintance with millionaires to know that they are, at heart, very much better than their testamentary dispositions would indicate. It is a very perplexing task to leave money where it will do more good than harm, though to the average reader it seems easy enough. Many of the very rich are truly to be pitied for the embarrassment they evidently feel at choosing successors to their wealth, which in the case of "self-made men" is especially keen. Their distrust of their own offspring is frequently shown by appointment of trustees to dole out annuities, with a blind hope, mingled with fear, that the next generation may perchance have the wisdom

which is lacking in that which has had the benefit of the testator's own training and example. They have their excuse: that to organize and endow a great public trust, so that it shall not degenerate into a quiet lot of snug sinecures requires more skill, time and strength than they have at command, and their desires may, after all, be frustrated. The State ought, I conceive, to provide a public legatee for noble aims, tending to invite, and qualified to administer, such endowments. As it is, each church and college and asylum is a sort of hat-in-hand mendicant, and it is a sore task to decide among them which are worthy and which unworthy. It seems some of our eminent multimillionaires have devolved this duty upon a private almoner, but what can he know or see of the future use of the benefactions he recommends, or of the needs of those he passes over. This it is which converts our bishops, college presidents and evangelists into legacy hunters, and has turned so-called philanthropic agency into a distrusted, if not demoralized, competition akin to chicane.

It has occurred to me that it may be useful just at this time to bring this question of the gospel of wealth from the region of glittering generalities where the ecclesiastic dignitaries, and other writers, have left it, down within the pale of practical politics by framing a skeleton enactment applicable to each State to meet this want, and at the same time to outline the working of what may be styled the attractive or compassionate side of sovereignty—a feature which seems to have been omitted in departing from the paternal type of government.

It is unnecessary here to go over the whole discussion of the various reasons for a new departure of the community in respect to huge fortunes; the nature, origin and tenure of property; the claims of the community (especially its helpless ones) thereon; the effect of example; the paralysis caused by "great expectations" of kindred; the undue influence of kindred, priest, doctor or counsel;

the airing of loathsome family scandals; the evasion of taxes; the injustice of the rule of the living by the dead generation. The principal objection to a succession tax, both in Europe and in New York and Connecticut, where it prevails in principle, is the fact that revenues so collected are merged with other money of the State and are disbursed for ordinary administrative purposes—it may be a fat canal contract, a job in public buildings or school books. Moreover, there is a special hardship in paying round commissions to either comptroller or collector for the simple performance of a duty for which he is otherwise amply paid.

To obviate this objection and for other more weighty reasons, it seems necessary to provide a special Department or instrumentality of the State which shall not be exposed to the ordinary temptations or contingencies of partisan office-holding. A board, or body, like the Regents of the University or the New York Central Park Commission, but with ampler powers, could be chosen to deal with this great work. The task is human, and the effort is daily being made in a sporadic, voluntary way. How much better to systematize it by specialists! Here is a case where the funds provided will be ample and unfailing; the problem is to find and lay out the best employment for them for the benefit of the whole public.

As a contribution to the question which ought to be acceptable alike to the millionaire, the socialist and the average citizen, and certainly to the average voter, I submit the accompanying short sketch of a law to regulate successions, tax inheritances, and devote the proceeds specially and sacredly to the work of making society better and happier.

#### AN [ORDINANCE, OR] ACT

*To regulate the succession of estates of deceased persons, in certain cases, and to levy a tax on the inheritance thereof for the benefit and promotion of works of benevolence and amelioration, also to create within this State a Department of Beneficence whose organ shall be an established Council of Betterments, qualified to receive*

*voluntary bequests, and other revenues ; to frame, carry out and organize systematic and comprehensive works of philanthropy, instruction, scientific research, embellishment and memorial arts.*

Be it enacted by the Senate and House of Assembly, etc. :

That the common law right of bequest be and the same is hereby modified and limited so that only so much of the estate of a decedent shall be under the ancient free testation as may be requisite to maintain the surviving members of his family, household or dependent or minor children until they attain to self-supporting age or condition, or for the support of kin during old age ; all excess or residue beyond this competence shall be subject to such imposts and charges as the Legislature may from time to time fix and impose for the benefit of the objects and purposes of this act mentioned.

SEC. 2. That from and after one year from the passage of this act, whenever any citizen or resident of this State shall die seized and possessed of real or personal property, or chuses in action subject to the laws of succession, whether by devise or of intestacy, it shall be the duty of the Council of Betterments, hereinafter created and established, to collect from the heirs and successors to such property so passing, or portions thereof, as compensation to the State for its accord of peaceful possession thereto, enjoyment thereof and the confirmation and registry of title thereto ; as well as indemnification for current taxes thereon which may have been omitted or avoided by the owner, and in the exercise of its sovereign capacity in order to foster philanthropic aims which may for any reason have been overlooked, or which may be frustrated and which in the judgment of the Commonwealth have a reasonable claim upon the surplus wealth of its citizens and aliens after the proper claims of his dependent family or household shall have first been satisfied, the tolls or deductions herein-under mentioned, namely :

*First*, From the share of any child (natural, acknowledged or adopted) or grandchild, who at the time of succession shall be a minor, or otherwise incapable of self-support, a deduction of five (5) per centum of the appraised value thereof.

*Second*, But if such child shall have attained lawful majority or otherwise be self-supporting, a deduction of ten (10) per centum on such value thereof.

*Third*, From the share of any father, mother, widow, widower, uncle, aunt, cousin, or kindred of any degree more remote than child or grandchild as aforesaid, a deduction of fifteen (15) per centum of such value thereof.

*Fourth*, But if such kinsman be adult, or otherwise self-supporting, then a deduction of twenty-five (25) per centum of the value thereof.

*Fifth*, From the share of any and all other heirs, or legatees, ascending, descending, collateral or not of kin, who shall be self-supporting and not of the family or household of decedent, or from the share of such association or corporation or trustee as shall participate in the benefits under this act, as hereinafter mentioned, a deduction of twenty-five (25) per centum of such value thereof.

*Sixth*, From the share of such association or corporation or trustee as shall fail or refuse so to participate in the benefits and become subject to the authority and visitation of the officers of state as provided in Section 7 hereof, then a deduction of fifty (50) per centum of such value thereof.

*Seventh*, The estates of persons dying without known issue, or acknowledged heirs, or where the same are manifestly repudiated or repugnant to the decedent, are escheated to the State to be turned over to the said Council of Betterments, chargeable, however, with equitable or moral obligations (if such shall appear within a reasonable period) to be used for the general purposes thereof.

*Eighth*, Provided, always, that no such tax shall be levied or collected on the shares of minors or dependents of the first class, except on the amount in excess of ten thousand dollars (\$10,000); nor on the shares of minors or dependents of the third class in excess of five thousand dollars (\$5,000); nor shall the homestead, its furniture, fittings, ornaments, implements, or customary belongings, be accounted in the appraised value of any share, nor be subject to any deduction, to the end that comfortable and beautiful houses may be encouraged and not discouraged; but money bullion, precious stones, gold or silver plate, jewelry, pictures, carriages, merchandise, artistic, or curious collections, beyond the ordinary and suitable requirements of the successor, shall be so subject to appraisal and deduction. Gifts or legacies to the said Council of Betterments, or to such eleemosynary, charitable, religious, or educational agency, corporation or association as shall be co-operating therewith and subordinate thereto as provided in Section 7 hereof shall be specially exempt from all appraisal or deduction therefrom.

SEC. 3. The creation of Trusts to be effectuated wholly or in part after the death of the testator, for illegal, immoral, fantastic, pernicious, obscure, or unpatriotic purposes; or for the benefit of unborn progeny, beyond the second generation, whether *in esse* or *in posse*, is discouraged and declared voidable at law, on the motion of the said Council of Betterments; and authority is hereby conferred on it to bring suit in the name and for the behalf of the people for their annulment, subject always to equitable charges thereon as the courts may determine. The tolls or taxes herein authorized to be deducted

and collected are made and declared to be a lien upon the estates so in succession until adequately discharged nor shall the courts of this State, nor the machinery of its organization be available to settle, register, or confirm the title thereto, or secure possession and enjoyment thereof where concealment or wilful evasion shall have been resorted to by the decedent, his successor, or beneficiaries. The receipt of the said Treasurer shall, however, be held to be *prima facie* evidence of payment and discharge of tolls *pro tanto* as expressed thereon.

SEC. 4. The power and authority to increase, diminish, or to abolish the said tolls or taxes upon the succession to estates of deceased persons, or the amounts thereof which shall be entitled to exemption therefrom, or to vary the degree and manner of their imposition, is expressly reserved to the Legislature and Executive as in other statutes, also to change the number, time and manner for the choice of members of said Council; but otherwise the Council shall be the sole custodian of the proceeds of such enforced tolls, which tolls shall be kept by its Treasurer, and not merged with other moneys of the State, nor subject to the control of either Legislative or Executive Departments, except as hereinabove mentioned; and the existence of said Council, its power to accept voluntary gifts, testamentary bequests and to exercise supervision and devote such funds as shall come into its possession to the objects and purposes hereinafter mentioned are expressly declared and made independent and permanent in tenure.

SEC. 5. That there be and hereby is created and established, as a distinct, co-ordinate and permanent department of the government of this State, a special board of amelioration, compassion, social advancement and legatee on the public behalf, to be known and designated as "The Council of Betterments;" said Council shall consist of one member, chosen from each county, with an additional member from such counties as shall contain, by the next preceding census returns, over one hundred thousand inhabitants, for each one hundred thousand so in excess. Such members shall be chosen by ballot, in the manner, but not at the date, prescribed for Judges of the Supreme Court. After being sworn to faithfully perform the duties of their office, such members shall hold office during life, unless sooner disqualified by age, infirmity, or malfeasance in their trust, but shall at all times be subject to impeachment and removal for misconduct, in the manner provided for Judges of the Superior Courts. Each of said members shall be entitled to a salary of six thousand dollars (\$6,000) per annum, payable in quarterly installments from the treasury of the said Council of Betterments hereby created, and shall have no other fees or emoluments thereabout.



**SEC. 6.** It shall be the duty and the privilege of said Council of Bettermen to represent the people of this State, by its president, treasurer, or by special counsel or proctor, before Probate Courts or other tribunals in all actions or causes, within or without the State, whenever the property of its citizens, residents or others than residents, is sought to be passed or confirmed by will or devise, or in cases of intestacy, or in which the people have a substantial interest to be affected, as by this act and other public statutes provided, to the end that the purposes of this act, and acts supplementary thereto, may be adequately defended and asserted. It may also tender its good offices in all cases of dispute as to the partition of estates, or testamentary disposals, for the behalf of the objects and aims placed under its charge as hereinafter mentioned.

The tolls or taxes herein authorized to be levied shall not be merged with other moneys of the State, but shall be kept by the treasurer of said Council, as the majority thereof shall direct, separate and independent of either executive or legislative interference or control and be specially pledged, held and devoted to the purposes of this act.

The receipt of the treasurer shall be affixed to all payments of money into said fund as required by this act, and of the president and secretary to all acceptances of gifts or bequests of lands, buildings, memorial, scenic or artistic structures, or other objects received by the Council.

The president and the treasurer shall each submit annually, in writing, a statement of operations of said Council to the Governor, to be by him laid before the next convening Legislature, showing the receipts and disbursements, giving the name of each estate and the parties from whom money or other valuable property has been received, the purposes for which and the amounts of money disbursed, together with such recommendations touching the working of the law and the advancement of its contemplated works as experience shall suggest.

**SEC. 7.** It shall be the duty of said Council to apply the revenues so accruing to works of amelioration, alleviation, embellishment, to the acquisition and diffusion of useful knowledge, and for wholesome relaxation from toil and care, for the benefit of the whole people such as shall be by the Council found worthy of initiation, support or assistance, and such as they may from time to time adopt, select or encourage. For this purpose the public parks, pleasure grounds, drive-ways thereof, the places of sepulture, memorial structures, collections of prehistoric or historic relics, zoological, botanical, archæologic curiosities; also the prisons, poor-houses, reformatories, asylums, or other retreats for the care of defective or criminal classes, sustained in whole or in part out of the public taxes, or by contributions from

the said Council of Betterments, be and they are hereby placed under the control and charge of said Council for the purposes of supervision and regulation, in accordance with the intent of this act.

There is hereby conferred on said Council power and authority to visit, inspect and report upon the organization, the inmates, officers, management, revenues and property of any charitable reformatory, religious or educational corporation or association within the State, which shall receive any assistance, compensation or revenue from the public taxes, or from any municipality therein ; and the receipt of any thing of value therefrom shall, *ipso facto*, subject such person, corporation or association to the authority herein conferred.

SEC. 8. It shall be the duty, in like manner, and as resources and occasion may justify, to invent, supply and maintain means and measures for the training, reformation and rational enjoyment of the neglected youth of the Commonwealth ; also to promote in a systematic, economical way the care and welfare of foundlings, orphans, decrepit, incurable or senile population. To that end it may found schools of applied science, arts, music, domestic cookery or handicraft in such manner as will in its judgment, without pauperizing or degrading the recipients, promote the welfare of society.

*Provided always*, That no such undertaking shall be begun or entered upon until there shall be at the command of the treasurer a fund sufficient to satisfy the cost thereof for at least one year ; nor shall the Council have power to create any indebtedness, anticipate accruing revenues, engage the credit of the State, issue bonds, promissory obligations, or, except for transitory emergencies, debentures, of which report shall be made to the Governor annually as hereinbefore provided. *Provided further*, however, that said Council is authorized and empowered, nevertheless, through its president and treasurer, to receive from any person or corporation, by gift or bequest, money, land or other thing of productive value to be applied to the said works of benevolence, presently or upon the happening of an unforeseen event, and for that purpose may issue its annuities payable to the donor, testator or other beneficiary for such term, and under such regulations and precautions, as the Council may prescribe and the treasurer by public notice make known.

SEC. 9. This act shall take effect from and after its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

R. T. COLBURN.